

**CARBON COUNTY
BOARD OF ADJUSTMENT**

APPLICATION FOR A VARIANCE

(Application Fee is Non-refundable)

Applicant's Name: _____

Phone: _____

Mailing Address: _____

FAX: _____

E-mail Address: _____

Property Owner's Name (if different from applicant): _____

As part of the application, the applicant is required to submit:

1. A plot plan which shows the property boundaries and the location of existing and proposed buildings and land used within those boundaries.
2. A list of names and addresses of all adjacent property owners.

AN INCOMPLETE APPLICATION WILL NOT BE ACCEPTED!

1. Do you believe that the variance requested is one which the Board of Adjustment is empowered to grant?
_____ Yes _____ No

a. If yes, check which type:

☐ Reduction in required width

☐ Reduction in required area

☐ Reduction in required side yard distance

☐ Reduction in required front setback

☐ Reduction in required rear setback

☐ Other (state type) _____

Note: Changes in use cannot be authorized by variance proceedings.

b. State the section of the Development Code from where the requirement you want a variance is found:

c. State the details of the variance, including the amount of variance requested, the present land use, the changes in land use if the variance is granted, and any other factors involved: _____

2. Are you, the applicant, the owner, lessee, or holder of some other beneficial interest in the subject property?

_____ Yes _____ No. If yes, state the specific interest you have. _____

3. Will the literal enforcement of the width, area, side yard, or setback requirement of the ordinance produce needless hardships? _____ Yes _____ No. If yes, explain: _____

4. Have you been denied a building permit, zoning clearance or zoning compliance permit for the subject use and property? _____ Yes _____ No. If yes, state the date of denial _____ and attach any documentation denying the permit or clearance.

5. Is the hardship located on or associated with the circumstances of the property itself, (such as difficulties with width, area, shape, topography, or geographic setting) but not associated with a personal or financial problem unrelated to the real estate? _____ Yes _____ No. If yes, explain: _____

6. Is the lot's topography, geographic setting, or other site characteristics peculiar, rather than a condition general to the neighborhood? _____ Yes _____ No. If yes, explain how: _____

7. Were the difficulties and hardships that pertain to the property's width, area, shape, etc., created by an act of the appellant or other party after the effective date of the ordinance? _____ Yes _____ No. If no, explain why: _____

8. Is the use (house, barn, gravel pit, etc.) which will be allowed if the variance is granted one which is specifically permitted in the zone? _____ Yes _____ No. If yes, state section number _____ and describe the use _____

9. Will granting the variance be compatible with the express purposes and spirit of the land use ordinance and assure that substantial justice is done? _____ Yes _____ No. If yes, explain how: _____

10. Will granting this appeal run contrary to public health, safety, and welfare or be contrary to the general plan? _____ Yes _____ No. If no, explain how: _____

11. Will granting the variance constitute a special grant of privilege not enjoyed by other properties in the zone? _____ Yes _____ No. If no, explain why: _____

12. Is granting the variance necessary to preserve the substantial property rights of the applicant? _____ Yes _____ No. If yes, explain why: _____

13. Will this variance be the minimum amount in order to give the necessary relief required? _____ Yes. _____ No. If yes, explain why: _____

To the best of my knowledge, the above information is accurate and complete.

Signature of Applicant

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(ATTACH ADDITIONAL SHEETS IF NECESSARY)

Under the Carbon County Development Code, the Board of Adjustment may act on your request only under the following:

2.2.2 Powers and Duties

The Board of Adjustment shall hear and decide:

- A. Appeals from zoning decisions applying the Development Code or land uses; and
- B. Variances, waivers, or modifications of the requirements of the Development Code.
- C. Alleged errors in Enforcement: The applicant or any other person or entity adversely affected by a decision administering or interpreting this code may appeal that decision by alleging that there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the administration or interpretation of the Development Code. Any officer, department, board, or bureau of the County affected by the grant or refusal of a building permit or by any other decisions of the Zoning Administrator in the administration or interpretation of the zoning ordinance may appeal any decision to the Board of Adjustment. The person or entity making the appeal has the burden of proving that an error was made. Only decisions applying the ordinance may be appealed to the Board of Adjustment. A person may not appeal, and the Board of Adjustment may not consider, and zoning ordinance amendments. Appeals may not be used to waive or modify the terms or requirements of this code.
- D. Appeals shall be taken within a period not to exceed forty five (45) days from the grant or refusal by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all the papers and data constituting record from which the appealed action was taken.

2.2.3 The Board of Adjustment shall have the following powers

Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the Board of Adjustments for a variance from the terms of the ordinance.

The appeal authority may grant a variance only if:

- A. The literal enforcement of this code would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances.
- B. The Board of Adjustments finds that there are special circumstances attached to the property that do not generally apply to other properties in the same zone.
- C. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
- D. The variance will not substantially affect the Master Plan and will not be contrary to the public interest, and the spirit of the Development Code is observed and substantial justice done.

In determining whether or not enforcement of this code would cause unreasonable hardship under Subsection (A), the Board of Adjustment may not find an unreasonable hardship unless the alleged hardship:

- 1. Is located on or associated with the property for which the variance is sought; and
- 2. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
- 3. Relate to the hardship complained of; and
- 4. Deprive the property of privileges granted to other properties in the same zone.
- 5. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- E. Variances run with the land.
- F. The appeal authority may not grant a use variance.
- G. In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
 - 1. Mitigate any harmful effects of the variance; or
 - 2. Serve the purpose of the standard or requirement that is waived or modified.